

Terms and Conditions

Veritas Digital Services Ltd - Terms and Conditions for the Sale of Goods and Services

1. Definitions and Interpretation

1.1 In these Conditions the following definitions apply:

“Business Day” means a day other than a Saturday, Sunday or bank or public holiday in England

“Conditions” means the Supplier’s terms and conditions of sale as set out herein

“Contract” means the contract for the purchase by the Customer of the Deliverables from the Supplier, incorporating these terms and conditions and arising from the acceptance by the Supplier of an Order

“Customer” means the company or organisation that purchases the deliverables from the Supplier and whose details are set out in the Customer Order and/or Contract

“Customer order” means the Customer's order to the Supplier for the Deliverables

“Deliverables” means the Goods or Services provided to the Customer

“Force Majeur” means an event or sequence of events beyond any party's reasonable control, preventing or delaying it from performing its obligations under the Contract

“Goods” means the goods set out in the Contract order, to be supplied to the Customer by the Supplier

“Location” means the address for the delivery of the Goods or performance of the Services as set out in the Contract

“Price” means the Price for the Deliverables as set out in the Contract, or as advised by the Supplier to the Customer at the time the Customer Order is made

“Services” means the services set out in the Contract, to be supplied to the Customer by the Supplier

“Specification” means the description or specification of the Deliverables as set out in the Contract

“Supplier” means Veritas Digital Services Ltd, whose registered office is at Lake House, Market Hill, Royston, Hertfordshire SG8 9JN and whose Company Registration number is 7797331.

1.2 In these Conditions, unless the context otherwise requires:

1.2.1 a reference to the Contract includes these Conditions, the Customer’s Order and the Contract;

1.2.2 any clause, or other heading in these Conditions, is included for convenience only and shall have no effect on the interpretation of these Conditions;

1.2.3 a reference to a ‘party’ means either the Supplier or the Customer and includes that party’s representatives, successors and permitted assigns;

1.2.4 words in the singular include the plural and vice versa;

1.2.5 any words that follow 'include', 'includes', 'including', 'in particular' or any similar words and expressions shall be construed as illustrative only and shall not limit the sense of any word, phrase, term, definition or description preceding those words;

1.2.6 a reference to 'writing' or 'written' includes any method of reproducing words in a legible and non-transitory form;

1.2.7 a reference to legislation is a reference to such legislation as is in force at the date of the Contract.

2. Contract

2.1 All Orders submitted by the Customer to the Supplier and accepted by the Supplier shall be subject to these terms and conditions which shall form part of and govern any Contract.

2.2 Acceptance by the Customer of any estimate or quotation for Deliverables issued by the Supplier shall be deemed to be acceptance of these terms and conditions.

2.3 Any terms and conditions appearing in any Order or any other document whatsoever issued by the Customer shall be void and of no effect, and these terms and conditions shall override any previous agreements relating to the provision of Goods and Services between the parties.

2.4 Marketing and other promotional materials relating to the Deliverables are illustrative only and do not form part of the Contract.

2.5. The Contract contains the entire agreement of the parties in relation to the supply of the Deliverables by the Supplier to the Customer. The Customer irrevocably waives any right it might have to claim for damages and/or to rescind a Contract because of any misrepresentation by the Supplier (unless such misrepresentation was made fraudulently), or any warranty not contained in the Contract.

3. Price

3.1 Prices are exclusive of Delivery and VAT, except where explicitly stated otherwise

3.2 The Customer shall pay any applicable VAT to the Supplier on receipt of a valid VAT invoice.

3.3 The Supplier may increase Prices with immediate effect by written notice to the Customer where there is an increase in the direct cost to the Supplier of supplying the relevant Deliverables and which is due to any factor beyond the control of the Supplier.

4. Payment

4.1 The Supplier may, at its discretion, offer credit terms to the Customer subject to the status of the Customer. Any such credit terms shall be determined by the Supplier, and confirmed in writing to the Customer.

4.2. Unless and until credit terms are granted, the Customer will pay for the Deliverables on a "cash with order" basis. The Supplier reserves the right not to release or perform as the case may be any Deliverables until all such payments received in cleared funds in the Supplier's bank account.

4.3 The Supplier may invoice the Customer for the Deliverables at any time prior or immediately after delivery or performance (as the case may be) of the Deliverables.

4.4 The Customer shall pay all invoices in full without deduction or set-off, in cleared funds, by the due date stated on the invoice.

4.5 Time of payment is of the essence. Where sums due under these Conditions are not paid in full by the due date:

4.5.1 the Supplier may, without limiting its other rights, charge interest on such sums at 3% a year above the current base rate published by the Bank of England, and

4.5.2 interest shall accrue on a daily basis, and apply from the due date for payment until actual payment in full, whether before or after judgment.

5. Credit limit

Credit limits may be set or varied by The Supplier and all further supplies may be withheld if the Customer exceeds any such credit limit.

6. Delivery and performance

6.1 The Goods shall be delivered by the Supplier to the Location(s) specified in the Contract. The Goods shall be deemed delivered by the Supplier on completion of unloading of the Goods at the Location, or handing over of the goods to the Customer's carrier or representative, where goods are supplied on an "ex-works" basis.

The Services shall be performed by the Supplier at the Location specified in the Contract. The Services shall be deemed delivered by the Supplier only on completion of the performance of the Services at the Location. The Supplier shall use all reasonable endeavours to provide the Services in accordance with the terms of the Contract and will ensure that the Services will be provided with all reasonable care and skill and by suitably trained and qualified persons.

6.2 The Supplier may deliver or perform the Deliverables in instalments. Any delay in performance or defect in an instalment shall not entitle the customer to cancel any other instalment.

6.3 Time is not of the essence in relation to the performance or delivery of the Deliverables. While the Supplier shall exercise reasonable endeavours to meet estimated dates for delivery and/or performance, any such dates are approximate only.

6.4 The Supplier shall not be liable for any delay in or failure of performance caused by:

6.4.1 the Customer's failure to make the Location available, prepare the Location in accordance with the Supplier's instructions or as necessary for the Deliverables, or to provide the Supplier with adequate instructions for performance or delivery relating to the Deliverables;

6.4.2 Force Majeure.

7. Risk

Risk in the Goods shall pass to the Customer on Delivery.

8. Title

8.1 Title to the Goods shall pass to the Customer once the Supplier has received payment in full in cleared funds for the Goods.

8.2 Until full legal title to the Goods has passed to the Customer, the Customer shall:

8.2.1 hold the Goods on a fiduciary basis as bailee for the Supplier;

8.2.2 ensure that the Goods are stored separately from any other goods in the Customer's possession, taking all reasonable care to preserve them in the condition in which they were delivered, not removing or tampering with any identification mark on the Goods or their packaging;

8.2.3 ensure that the Goods are clearly identifiable as belonging to the Supplier;

8.2.4 insure the Goods from the date of delivery against all risks and for an amount at least equal to their Price, noting the Supplier's interest on the policy;

8.2.5 permit the Supplier to inspect the Goods during the Customer's normal business hours, given reasonable notice.

8.3 The Supplier may at any time, on demand and with prior notice, require the Customer, at the Customer's expense, to deliver the Goods to the Supplier, if any sum due to the Supplier from the Customer under the Contract is not paid when due, and;

8.3.1 if the Customer fails to do so promptly, enter any premises where the Goods are stored and repossess them.

8.4 If Goods are sold or otherwise disposed of to a third party before title has passed to the Customer, the Customer shall keep full records of any such sale or disposal, and the sale will constitute a sale by the Customer of the Supplier's property. The Customer shall hold on trust for the Supplier such sum as represents, or is equivalent to, the price at which the Goods concerned were invoiced by the Supplier to the Customer.

9. Warranty

9.1 The Supplier warrants that, for the period specified in the Contract, as calculated from the Delivery Date, (the "Warranty Period"), the Goods shall:

9.1.1 conform in all material respects to their Specification;

9.1.2 be free from material defects in design, material and workmanship;

9.1.3 be of satisfactory quality within the meaning of the Sale of Goods Act 1979.

9.2 If Services, the Supplier warrants that:

9.2.1 any media on which the results of the Services are supplied shall be of satisfactory quality within the meaning of the Sale of Goods Act 1979.

9.2.2 the Services shall be carried out with reasonable care and skill.

9.3 The Customer warrants that it shall provide the Supplier with all relevant, full and accurate information as to the Customer's business and needs.

9.4 The Supplier shall, at its option, correct, repair, remedy the Deliverables that do not comply with clauses 9.1 and/or 9.2, provided that the Customer:

9.4.1 serves a written notice on Supplier not later than 14 Days from delivery or performance in the case of defects discoverable by a physical inspection, or within a reasonable period of time from delivery or performance in the case of latent defects;

9.4.2 such notice specifies that some or all of the Deliverables do not comply with clause 9.1 and/or 9.2 and identifying in sufficient detail the nature and extent of the defects; and

9.4.3 gives the Supplier a reasonable opportunity to examine the claim of the defective Deliverables.

9.5 The provisions of these Conditions shall apply to any Deliverables that are corrected, repaired, remedied or re-performed with effect from delivery or performance of those Deliverables.

9.6 Except as set out in this clause 9:

9.6.1 the Supplier gives no warranty and makes no representations in relation to the Deliverables; and

9.6.2 the Supplier shall have no liability for their failure to comply with the warranty in clause 9.1 and/or 9.2, and all warranties and conditions (including the conditions implied by ss 12–16 of the Supply of Goods and Services Act 1982 and ss 13–15 of the Sale of Goods Act 1979), whether express or implied by statute, common law or otherwise are excluded to the extent permitted.

10. Indemnity and insurance

The Customer shall indemnify, and keep indemnified, the Supplier from and against any losses, damages, liability, costs (including legal fees) and expenses incurred by the Supplier as a result of, or in connection with, the Customer's breach of any of the Customer's obligations under the Contract.

11. Limitation of liability

11.1 The extent of the parties' liability under or in connection with the Contract (whether in contract or tort or in any other way and whether or not caused by negligence or misrepresentation) shall be as set out in this clause 11.

11.2 Subject to clauses 11.5 and 11.6, the Supplier's total liability shall not exceed the Price.

11.3 Subject to clauses 11.5 and 11.6, the Supplier shall not be liable for consequential, indirect or special losses.

11.4 Subject to clauses 11.5 and 11.6, the Supplier shall not be liable for the following (whether direct or indirect):

11.4.1 loss of profits, business, production, revenue, goodwill, data or anticipated savings, whether sustained by the Customer or any other person;

11.4.2 any special, indirect, or consequential loss whether sustained by the Customer or any other person.

11.5 The limitations of liability set out in clauses 11.2 to 11.4 shall not apply in respect of any indemnities given by either party under the Contract.

11.6 Notwithstanding any other provision of the Contract, the liability of the parties shall not be limited in any way in respect of the following:

11.6.1 death or personal injury caused by negligence;

11.6.2 fraudulent misrepresentation;

11.6.3 any other liability which cannot be excluded or limited under applicable law.

12. Force Majeure

12.1 If delayed in or prevented from performing its obligations due to Force Majeure, a party shall not be liable if provided that it:

12.1.1 promptly notifies the other of the Force Majeure event and its expected duration; and

12.1.2 uses best endeavours to minimise the effects of such event.

13. Termination

13.1 The Supplier may terminate the Contract at any time or suspend the performance of its obligations under the Contract forthwith by notice in writing to the Customer if:

13.1.1 the Customer commits a material breach of the Contract and such breach is not remediable;

13.1.2 the Customer commits a material breach of the Contract which is not remedied within 14 days of receiving written notice of such breach;

13.1.3 the Customer defaults in making payment for any of the Deliverables on the date due under the Contract, and such amount remains unpaid 28 days after the Supplier has given notice that the payment is overdue;

13.1.4 any consent, licence or authorisation held by the Customer is revoked or modified such that the Customer is no longer able to comply with its obligations under the Contract.

13.2 The Supplier may terminate the Contract at any time or suspend the performance of its obligations under the Contract forthwith by notice in writing to the Customer if the Customer:

13.2.1 makes any voluntary arrangement with its creditors (within the meaning of the Insolvency Act 1986 or becomes subject to an administration order or goes into liquidation (otherwise than for the purposes of amalgamation or reconstruction) or a trustee receiver, administrative receiver or similar officer is appointed in respect of all or any part of the business or assets of the Customer; or

13.2.2 is deemed unable to pay its debts within the meaning of section 123 of the Insolvency Act 1986, or if the Supplier reasonably believes that to be the case;

13.2.3 has a resolution passed for its winding up.

13.3 Termination or expiry of the Contract shall not affect any accrued rights and liabilities of the Supplier at any time up to the date of termination.

13.4 Those clauses capable of surviving termination shall do so.

14. Personnel

14.1 The Customer acknowledges that the Supplier has incurred significant costs in recruitment and training its employees to enable them to provide the Deliverables.. The Customer agrees that it will not solicit or approach in any way, any of the Supplier's employees who are involved in the provision of the Deliverables with a view to offering them employment, or to solicit services from them on their own account (whether for the Customer or another party) during the period of the Contract and for a period of six months after termination or expiration of the Contract.

14.2. The Customer acknowledges that damages will not be an adequate remedy for the Supplier if the Customer breaches section 1 of this Personnel Clause, and that the Supplier shall be entitled to seek injunctive relief and any other equitable remedies with respect to such breach.

15. Notices

15.1 Any notice or other communication given by a party under these Conditions shall:

15.1.1 be in writing and in English;

15.1.2 be signed by, or on behalf of, the party giving it; and

15.1.3 be sent to the relevant party at the address set out in the Contract.

15.2 Notices may be given, and are deemed received:

15.2.1 by hand: on receipt of a signature at the time of delivery;

15.2.2 by post, using a signed for service and upon signature at the time of delivery;

15.2.3 by email: on receipt of a read receipt email from the correct address.

15.3 Any change to the contact details of a party as set out in the Contract shall be notified to the other party in accordance with clause 15.1.

15.4 All references to time are to the local time at the place of deemed receipt.

15.5 This clause does not apply to notices given in legal proceedings or arbitration.

16. Time

Time is of the essence for any date or period specified in the Contract in relation to the Customer's obligations only, unless explicitly stated otherwise.

17. Entire agreement

The parties agree that the Contract constitutes the entire agreement between them and supersedes all previous agreements, understandings and arrangements between them, whether in writing or oral in respect of its subject matter.

18. Variation

No variation of the Contract shall be valid or effective unless it is in writing, refers to the Contract and these Conditions and is duly signed or executed by, or on behalf of, the Supplier.

19. Invalidity

If any provision of the Contract (or any portions thereof), of a Contract are held to be invalid and unenforceable under any applicable statute or rule of law, they are to that extent to be deemed omitted and the validity and/or enforceability of the remaining provisions of the Contract shall not be impaired or affected by that omission.

20. Waiver

20.1 The waiver by either party of a breach or default of any of the provisions within these Terms and Conditions by either party shall not be construed as a waiver of any succeeding breach of the same or other provisions.

20.2 No delay or omission on the part of either party to exercise or avail itself of any right, power or privilege that it has, or may have hereunder operates as a waiver of any breach or default by either party.

21. Compliance with law

The Customer shall comply with all laws, enactments, regulations, regulatory policies, guidelines and industry codes applicable to it and shall maintain such authorisations and all other approvals, permits and authorities as are required from time to time to perform its obligations under or in connection with the Contract.

22. Conflicts with Contract

In case of any conflict between the terms contained in these Conditions and the terms of the Contract, the terms contained in these Conditions shall prevail.

23. Governing law and Jurisdiction

23.1 The Contract and any dispute or claim arising out of, or in connection with, it, its subject matter or formation (including non-contractual disputes or claims) shall be governed by, and construed in accordance with, the laws of England and Wales.

23.2 The parties irrevocably agree that any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with the Contract, shall be submitted to the exclusive jurisdiction of the Courts of England and Wales.